

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs

No. CR 21-584 KWR

ORLANDO RODRIGUEZ and
JEREMY ATENCO,

Defendants.

**ORDER GRANTING CONTINUANCE OF TRIAL
AND PRETRIAL DEADLINES**

THIS MATTER is before the Court on Defendants' *Joint Unopposed Motion to Continue Trial Setting for Sixty Days*, filed January 11, 2022 (Doc. 47). The Court having considered the motion and having considered the holding in *United States v. Toombs*, 574 F.3d 1262 (10th Cir. 2009), finds that the Defendants have by their motion, created a sufficient record to justify granting the motion to continue. See id., 574 F.3d at 1271 (requiring that the record on a motion to continue contain an explanation of why the mere occurrence of the event identified by the party as necessitating the continuance results in the need for additional time). Additionally, the Court finds that further, pursuant to the relevant factors under 18 U.S.C. §3161(h)(7)(B)(i-iv), a continuance is necessary for counsel to complete a thorough review discovery; to prepare and file any necessary pretrial motions if this matter is not resolved. To enter into plea negotiation with the government. The parties believe that this matter may resolve through plea negotiation to the mutual benefit of defendants and the government which justify a continuance. Therefore, all the time from the filing of the motion until the beginning of jury selection in this matter shall be excluded for the purposes of the Speedy Trial Act.


IT IS THEREFORE ORDERED that the Jury Selection/Trial of **February 7, 2022** is **VACATED**. Call of the Calendar is reset for **April 7, 2022, at 9:00 a.m.** and Jury Selection/Trial is reset for **April 11, 2022, at 9:00 a.m.**, on a trailing docket at the United States Courthouse, 333 Lomas Blvd., NW, Bonito Courtroom, before Judge Kea W. Riggs in Albuquerque, New Mexico.

IT IS FURTHER ORDERED that the substantive motion deadline is hereby extended until **March 7, 2022**.

IT IS FURTHER ORDERED that, so as to conserve judicial resources, any motion to continue trial must be filed no later than **March 28, 2022**.

IT IS FURTHER ORDERED that pursuant to 18 U.S.C. §3161(h)(7)(A), the Court finds that the ends of justice served by granting the unopposed motion for continuance outweigh the best interest of the public and the defendant in a speedy trial.

IT IS FINALLY ORDERED that counsel shall adhere to the instructions and case management deadlines as set forth in the following attachment, "Preparation for Criminal Trial" (includes guidelines for preparation of proposed jury instructions, JERS Informational Letter, and JERS Attorney Guide).



KEA W. RIGGS
UNITED STATES DISTRICT JUDGE

**PLEASE REFER TO THE FOLLOWING
ATTACHMENTS FOR ADDITIONAL DEADLINES AND INFORMATION:**

“Preparation for Criminal Trial” (includes guidelines for preparation of proposed jury instructions, JERS Informational Letter, and JERS Attorney Guide).

OTHER INSTRUCTIONS/MOTION TO CONTINUE TRIAL DEADLINE:

Motions for continuance in criminal cases must be filed in accordance with 18 U.S.C. § 3161(h)(7)(A), specifically setting forth the factual grounds justifying the continuance under the statute. In cases involving multiple defendants, counsel must file a joint motion for continuance with all counsel approving said motion. MOTIONS TO CONTINUE MUST COMPLY WITH THE SPECIFIC REQUIREMENTS SET FORTH IN *UNITED STATES V. TOOMBS*, 574 F.3D 1262 (10TH CIR. 2009). THE MOTION “MUST CONTAIN AN EXPLANATION OF WHY THE MERE OCCURRENCE OF THE EVENT IDENTIFIED BY THE PARTY AS NECESSITATING THE CONTINUANCE RESULTS IN THE NEED FOR ADDITIONAL TIME.” *ID.* AT 1271. MOTIONS CONTAINING SHORT, CONCLUSORY STATEMENTS REGARDING THE REASON A CONTINUANCE IS REQUESTED ARE INSUFFICIENT UNDER *TOOMBS* AND WILL BE SUMMARILY DENIED BY THE COURT.

TRAILING TRIAL DOCKET:

Counsel are referred to the trailing docket of cases as they appear for jury/selection trial on the Public Court Calendar for April 2022. The order in which cases appear on the Court Calendar does not necessarily reflect the order in which cases will be tried.